



RULE-MAKING ORDER

CR-103 (June 2004)
(Implements RCW 34.05.360)

Agency: Department of Labor and Industries

☐ Permanent Rule
☒ Emergency Rule

Effective date of rule:

Permanent Rules

☐ 31 days after filing.
☐ Other (specify) (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

☒ Immediately upon filing.
☐ Later (specify)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes ☒ No If Yes, explain:

Purpose: Ground Personnel

This rule is a continuation of the rule adopted as WSR 04-10-107 and filed on May 5, 2004. The continuation of this rule will allow the department to proceed with permanent rulemaking on this subject. There are no changes from the initial emergency rule. After the department adopted rules protecting flaggers in construction sites in January 2001, WISHA received requests from stakeholders to review the rules regulating protection of construction workers on the construction sites. There have been six fatalities since 1999 that could have been prevented with rules that are more protective of construction workers. The rule is intended to reduce or eliminate the number of serious injuries and fatalities by increasing worker protection from vehicular traffic on construction sites.

Citation of existing rules affected by this order:

Repealed: None
Amended: WAC 296-155-610, Motor Vehicles
Suspended: None

Statutory authority for adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060

Other authority: None.

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR _____ on _____ (date).

Describe any changes other than editing from proposed to adopted version:

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
Address: _____ fax () _____
e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- ☒ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

There have been six fatalities over the past five years that could have been prevented with this rule. The rule is intended to reduce or eliminate the number of serious injuries and fatalities while the Department is conducting rulemaking on a permanent rule to protect workers from vehicular traffic on construction sites. An emergency rule is necessary to ensure protection of workers during the months of March through October, when construction work is being conducted with greater frequency.

Date adopted: September 3, 2004

NAME (TYPE OR PRINT)
Paul Trause

SIGNATURE

TITLE
Director

CODE REVISER USE ONLY

WSR#04-19-013

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

| | | | | | | |
|---|-----|----------|---------|----------|----------|----------|
| Federal statute: | New | <u>0</u> | Amended | <u>0</u> | Repealed | <u>0</u> |
| Federal rules or standards: | New | <u>0</u> | Amended | <u>0</u> | Repealed | <u>0</u> |
| Recently enacted state statutes: | New | <u>0</u> | Amended | <u>0</u> | Repealed | <u>0</u> |

The number of sections adopted at the request of a nongovernmental entity:

| | | | | | |
|-----|----------|---------|----------|----------|----------|
| New | <u>0</u> | Amended | <u>0</u> | Repealed | <u>0</u> |
|-----|----------|---------|----------|----------|----------|

The number of sections adopted in the agency's own initiative:

| | | | | | |
|-----|----------|---------|----------|----------|----------|
| New | <u>0</u> | Amended | <u>1</u> | Repealed | <u>0</u> |
|-----|----------|---------|----------|----------|----------|

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

| | | | | | |
|-----|----------|---------|----------|----------|----------|
| New | <u>0</u> | Amended | <u>0</u> | Repealed | <u>0</u> |
|-----|----------|---------|----------|----------|----------|

The number of sections adopted using:

| | | | | | | |
|---------------------------------------|-----|----------|---------|----------|----------|----------|
| Negotiated rule making: | New | <u>0</u> | Amended | <u>0</u> | Repealed | <u>0</u> |
| Pilot rule making: | New | <u>0</u> | Amended | <u>0</u> | Repealed | <u>0</u> |
| Other alternative rule making: | New | <u>0</u> | Amended | <u>1</u> | Repealed | <u>0</u> |